# Military and Overseas Voters 2012

## Observations & Recommendations by a Delegation of State Chief Elections Officers


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# TABLE OF CONTENTS

**BACKGROUND ..... 1**

**OBSERVATIONS ..... 3**

Mail Balloting ..... 3

Non-Military Overseas Voters ..... 4

Outreach ..... 5

Installation Voting Assistance Office Outreach ..... 5

CVN Outreach ..... 6

Overseas Citizens Outreach ..... 7

**RECOMMENDATIONS ..... 8**

Recommendation #1 .....
*Explore the Use of the "Common Access Card" to Enable the Electronic Transmission of Absentee Ballots* ..... 8

Recommendation #2 .....
*Enhance Efforts to Provide Individualized Content to Absentee Voters (Direct-to-the-Voter Assistance)* ..... 10

Recommendation #3 .....
*Enhance Coordination with MPS and State and Local Election Officials* ..... 11

**CONCLUSION ..... 13**

# BACKGROUND

From September 8-15, 2012, the Office of the Secretary of Defense hosted a bipartisan delegation of Secretaries of State who serve as their respective states' Chief Elections Officer and a representative of the Federal Voting Assistance Program (FVAP) to travel to U.S. installations in the Middle East to meet with troops, military voting representatives and U.S. Embassy officials. The five secretaries participating were Nevada Secretary of State Ross Miller (2012-13 President, National Association of Secretaries of State), Arkansas Secretary of State Mark Martin, Kentucky Secretary of State Alison Lundergan Grimes,[1] Louisiana Secretary of State Tom Schedler Jr., and Michigan Secretary of State Ruth Johnson. FVAP's representative was Paddy McGuire. The Department of Defense (DOD) outlined the purpose of the tour as follows:

> The purpose of the NODEL (Non-Congressional Delegation) is to educate key Secretaries of State on civil, military and political initiatives along with absentee voter issues within the CENTCOM AOR (Central Command Area of Responsibility). The Delegation will also visit ARCENT (Army Central Command), NAVCENT (Navy Central Command), AFCENT (Air Force Central Command) Headquarters and embark overnight on USS CVN (Aircraft Carrier) for familiarization briefs and tours onboard an operational platform.[2]

The delegation's travel to Kuwait, Qatar and Bahrain for this educational tour included meetings and briefings with high level military personnel, U.S. Embassy officials, Voting Assistance Officers (VAOs) and other personnel knowledgeable about military and overseas voting, as well as active-duty service members from all military branches. The original itinerary also included a tour of and meetings aboard the USS Eisenhower, but that visit was canceled due to logistical issues. In Kuwait, the delegation met with U.S. Ambassador Matthew Tueller and embassy staff. Additionally, the Kuwait visit included an extensive tour, briefings and meetings at Camp Arifjan, home to ARCENT. The delegation then travelled to Al Udeid Air Base in Qatar, where they met with personnel of the AFCENT. While on base, the delegation also met with the U.S.

[1] *See* Grimes, Alison Lundergan, Kentucky Secretary of State. Military Matters: Protecting the Rights of Those Who Protect Us. (September 19, 2012).
[2] Itinerary, Version 12, NODEL Secretary of State Delegation Tour. (September 24, 2012).

Embassy's Deputy Chief of Mission, Ian McCary. Traveling to Bahrain, the delegation then toured NAVCENT headquarters, where they were briefed by Vice Admiral John Miller and other military leaders on base. The delegation also met with members of the Marine Forces Central Command (Forward) (MARCENT). The visit also included a tour of the USS Ponce and USS Exultant, where the delegation met with crew members. While in Manama, Bahrain, the delegation met with U.S. Ambassador Thomas Krajeski and embassy staff then headed south to Isa Air Base where they toured the base and held further meetings with military personnel.

This bipartisan trip was the second mission of a contingent of state election officials sponsored by the U.S. DOD. The first such tour was conducted in the Fall of 2008 and culminated in a similar report, "Military and Overseas Challenges: A Report from the Front."[3] That report highlighted many challenges experienced by military personnel stationed overseas, often in combat zones, in the transmission of their ballots and was a pivotal component in building the bipartisan momentum needed to enact state legislation around the country making it easier for military and overseas voters to cast their ballots, including perhaps most notably the federal Military and Overseas Voter Empowerment (MOVE) Act of 2009.

[3] Hoseman, Delbert, Mississippi Secretary of State. Military and Overseas Challenges: A Report from the Front.

# OBSERVATIONS

The process, procedures and educational voter outreach designed to ensure that military and overseas voters are able to timely receive and transmit their ballots prior to Election Day appear to be functioning very well. Legislative changes, including the MOVE Act, Uniform Military and Overseas Voters (UMOVA) Act and other state statutes, pertaining to military and overseas voting initiatives appear to have made significant progress in establishing mechanisms and timelines that provide military personnel and overseas citizens the opportunity to cast an absentee ballot and timely return it via a variety of transmission options so that it can be counted. Challenges in effective voter outreach remain; additional enhancements could further simplify the electoral process for military and overseas voters. It is evident that the efforts of FVAP, working in concert with local and state elections officials, have resulted in an effective system for ensuring that military and overseas citizens can cast their ballots within a time frame that will ensure those ballots are counted.

***Mail Balloting***

The Military Postal Service (MPS) has made significant enhancements to the ballot transmission process, and military voters generally reported that they had no issues timely receiving and transmitting their ballots. In fact, the timely transmission of ballots is among the highest priorities of U.S. Central Command (USCENTCOM) absentee ballot postal policy and procedures. USCENTCOM Regulation 25-64 mandates that, "Absentee Ballots shall be afforded the most expeditious handling and transmission possible." During many meetings and briefings throughout the tour, it was explained that DOD has made it clear that "ballots go before beans and bullets" in the priority of transportation of assets. During the delegation's tour it was evident that the MPS did, in fact, place the highest priority on timely processing ballots and that there is a robust system for ensuring that military voters are able to have their voices heard during an election. With respect to the effectiveness of this "priority of movement message," it was reported that ballots to even the most remote forward operating bases would reach the destination within ten days.

The mission included extensive tours of postal facilities with detailed demonstrations by military personnel outlining the process within the MPS. It was abundantly clear that the Department of Defense is fully committed to ensuring timely ballot transmission and that there are procedures

in place to fulfill that commitment. For example, the MPS applies the Express Mail Service Label 11-DOD to each ballot from an overseas service member, ensuring expedited delivery to election offices within the United States. The label also provides voters and the MPS with the ability to track military ballots from acceptance through delivery, as well as delivery scans conducted by the U.S. Postal Service. Military personnel within MPS reported that the system functions well, with sufficient safeguards to ensure ballot security and tracking while simultaneously providing enough efficiency that aggressive ballot delivery timelines are met.

The feedback from military voters relating to absentee balloting by mail was overwhelmingly positive. They reported that the process is familiar and effective, and most VAOs relayed that they were unaware of military voters who had experienced problems in voting during recent elections. This positive feedback is a very promising development and particularly noteworthy because previous reports suggested that balloting by mail in prior elections had been problematic and did not afford enough time for many military voters to complete the process. Notably, the 2008 delegation of secretaries of state noted that, "the delay caused by mail delivery of ballot materials effectively leaves many military personnel with insufficient time to vote."[4] Similarly, a 2009 Pew Center on the States report, "No Time to Vote," noted that procedural delays in the voting process made it impossible for many military voters to timely cast their ballots.[5] It appears that the bipartisan federal and state legislative efforts to address these deficiencies in absentee mail ballots, along with considerable enhancements within FVAP, in partnership with state and local election officials and within the MPS, have resulted in a more robust and effective system for timely transmission of absentee mail ballots.

***Non-Military Overseas Voters***

With respect to issues facing overseas citizens, many challenges in ensuring that eligible voters have adequate time to cast an absentee ballot persist. Despite the significant enhancements of the MOVE Act in prescribing deadlines for the preparation and transmission of ballots, U.S. embassy officials relayed that due to the unreliability of foreign postal systems, the dependency on receiving ballots via the foreign mail services can be a significant barrier to the timely

[4] *Id.*
[5] The PEW Center on the States. No Time To Vote: Challenges facing America's Overseas Military Voters. (January 2009).

transmission of ballots. However, return mail functions effectively because citizens can return the ballots to the embassy. Embassy officials in Kuwait reported that fax machines are available and are often the means of conducting business; however, some machines cannot fax to 800 numbers, posing an issue with respect to returning ballots by fax to some elections offices.

***Outreach***

Voter outreach efforts at military installations, which include widespread and varied communication channels, appear to be very effective. Officials at every installation highlighted the significant efforts in place to reach all eligible citizens, including specific election-related events, email reminders and notices about the voting process, and general installation announcements. Additionally, FVAP banners were ubiquitous at heavily trafficked locations throughout every installation the delegation visited, and it was apparent that the Armed Forces Network (AFN) had engaged in a vigorous public service announcement campaign related to voting. The outreach efforts at the installations included in the delegation's tour were so robust, visible and omnipresent that it seems highly unlikely that any particular service member would not have been exposed to voting assistance messaging.

***Installation Voting Assistance Office Outreach***

Although the overall outreach campaigns appear to be functioning very effectively, some channels of communication proved more efficient than others. During interaction with many service members, there was a general lack of awareness of the presence of specific voter assistance offices at any given installation. While it was reported that certain installations did have an operational and functioning Installation Voter Assistance Office (IVA), military personnel were generally not aware of the location, or even existence, of any such office. Some service members questioned the efficacy of IVA offices as a means of communication, recommending that resources instead be focused on email, general announcements and direct communication in meetings and major gatherings.

The feedback from military personnel questioning the efficacy of brick-and-mortar IVA offices was of interest to the delegation because whether IVA offices have been sufficiently established in order to meet UOCAVA guidelines has been the subject of recent scrutiny. The recently released report by the Department of Defense Inspector General (DODIG) No. DODIG-2012-123 concluded that "the Services had not established all the IVA offices as intended by the

MOVE Act and noted a high rate of failure in attempts to contact IVA offices identified by FVAP.[6] This DODIG finding was the subject of further questioning during the House Committee on Armed Services Subcommittee on Military Personnel hearing on FVAP performance on September 13, 2012. At that hearing, Acting FVAP Director Pam Mitchell opined that FVAP believes brick-and-mortar IVA offices may not be the most effective means of providing assistance or information to military voters.[7] Ms. Mitchell further noted that a DODIG report dated March 30, 2012, entitled "Assessment of Voting Assistance Programs for Calendar Year 2011" had made the same finding.[8]

Based on the feedback received from service members, the delegation raised similar questions about whether brick-and-mortar IVA offices are a worthwhile use of resources. The August 31, 2012, DODIG report noted that funding for adequately establishing required IVA offices was not available and costs could exceed $15-$20 million per year. If the mandate to establish an IVA office on every installation is continued, a comprehensive analysis should be conducted to determine whether IVA offices are worth the investment or whether the funding could be more effectively allocated toward communication channels more likely to efficiently reach the service members.

***CVN Outreach***

Although the delegation's tour of the USS Eisenhower was cancelled, military officials relayed specific feedback about the process on a carrier. They reported that several means of outreach have proved highly successful, including an "all-hands email" starting before the primary election and increasing weekly starting in July through the general election, 1MC loud speaker announcements throughout the ship during key deadlines, daily reminders in the ship newspaper along with at least two feature stories and announcements at all officers and hand meetings. Among the challenges they face, it was reported that one major complaint from personnel on board was that the FVAP website was non-functional due the extremely low bandwidth

[6] Inspector General, U.S. Department of Defense, Report No. DODIG-2012-123 Special Plans and Operations: Assessment of the Federal Voting Assistance Program Office Implementation of the Military and Overseas Voter Empowerment Act. (August 31, 2012).
[7] Pam Mitchell, Acting Director, Department of Defense Federal Voting Assistance Program. Statement before the House Committee on Armed Services, Subcommittee on Military Personnel Hearing on the Federal Voting Assistance Program. (September 13, 2012).
[8] Inspector General, U.S. Department of Defense, Report No. DODIG-2012-068 Special Plans and Operations: Assessment of Voting Assistance Programs. (March 30, 2012).

sometimes found on the ships. Additionally, while FVAP has added a mobile website, the site does not currently provide a means to fill out the required Federal Post Card Application (FPCA) or Federal Write-in Absentee Ballot (FWAB) online. Another reported issue was that embarked squadrons and staff did not have any formal communications with the IVA office until the individual sought them out. While each squadron has an assigned VAO, they reported a need for a more formal recognition of the VAO for the ship once the units deploy.

***Overseas Citizens Outreach***

With respect to overseas citizens, U.S. embassy officials reported that there are outreach efforts in place. Consular staff described outreach though traditional media, social media, email notifications and prominent banners within the embassies. They also described specific outreach conducted during Absentee Voting Week, which took place September 30 – October 7, 2012,[9] including outreach to American organizations and companies requesting they partake in the dissemination of information related to overseas voting. However, despite these vigorous efforts, embassy officials also reported many challenges in effectively communicating the voting process. Notably, officials relayed challenges in identifying U.S. citizens in the jurisdiction. In most instances, if a U.S. citizen is living or traveling abroad and has not registered with the U.S. Department of State's "Safe Traveler Enrolling Abroad" (STEP) program, embassy staff does not have direct access to that individual, and therefore effective outreach is problematic. The embassy officials also cited specific legal barriers that exist in some states that preclude citizens from voting. For example, in twenty-two states, U.S. citizens who were born abroad, but have never resided in the U.S., are ineligible to vote absentee.

[9] Press Release #25, Federal Voting Assistance Program. It's Absentee Voting Week – Request Your Ballot and Vote. (September 27, 2012).

# RECOMMENDATIONS

The delegation appreciates the efforts of the DOD and FVAP to engage, educate and inform state election officials on current practices and processes as well as unique challenges in guaranteeing military personnel and overseas citizens' access to voting. This tour not only underscores the value federal and state legislative changes have made in transforming the electoral process for these voters, but also provides an opportunity for further discussion on how election officials can work together with DOD, FVAP and the State Department to find solutions to these challenges and continue to improve the policies and procedures for military and overseas voters. To this end, the following three recommendations are offered as a means of continuing the dialogue.

***Recommendation #1***

**Explore the Use of the "Common Access Card" to Enable the Electronic Transmission of Absentee Ballots**

Throughout the tour, many military personnel made it abundantly clear that the preferred method of participating in the election process is electronic transmission of election materials, including unmarked and marked ballots. Since 2008, many states have made significant changes to their electoral processes in an effort to move toward this option. Forty-seven states currently allow military and overseas voters the option to receive election materials electronically. Many military members relayed that while the current process in many states for voting via electronic transmission is accessible and straight forward, the system could be improved by reducing the number of steps required to request and transmit their ballots. While many states currently allow electronic transmission of election materials, the process typically requires the voter to print the ballot, complete it by hand, sign it and then scan it into an electronic format before transmitting it back via email to the local election official. This process could be dramatically streamlined if a voter could instead simply attach a secure electronic signature or provide personal identification information before emailing the ballot back to the election official. For that reason, the delegation recommends that analysis be conducted as to whether use of the DOD Common Access Card (CAC) could provide a sufficient means of establishing the identity of the voter and a secure method of transmitting ballots electronically.

The CAC is a type of smart card about the size of a credit card that serves as standard identification for active-duty military personnel, Selected Reserve, DOD civilian employees and eligible contract personnel. The CAC is required to access defense computer network and systems, and it functions by requiring the user to insert the card into a reader and then entering a personal identification number (PIN). Once a user has gained access to the computer network and systems, documents can be signed and securely transmitted by attaching a valid digital signature. This means of attestation allows for a reliable and secure means of authentication and further ensures that the document has not been altered in transit because it is encrypted using both a public and private key. Military personnel reported uniform familiarity with the CAC system and routinely using the system's digital signature capability to securely sign and transmit documents.

As a result of the widespread familiarity with attaching digital signatures through use of the CAC controlled system, the delegation explored in some depth issues relating to whether the electoral system could be enhanced to allow for secure transmission of election materials, including marked ballots, within this system. In response, many military members acknowledged that being able to transmit election materials electronically by attaching an electronic CAC signature would make it much easier to participate in the election process and vote. This feedback relating the desire to transmit ballots electronically is not new; it was cited by the 2008 DOD-sponsored delegation of secretaries of state in their report. That delegation of secretaries of state reported that, "clearly, email balloting is a solution of choice for the deployed troops who met with the Secretaries in Kuwait, Iraq, Afghanistan and Germany. Most troops stated they almost always had access to their email accounts, and email presents a very user-friendly way to vote." Additionally, with respect to Internet-based voting, they reported, "Like e-mail, Internet voting was a frequently expressed preference of the military voters who met the Secretaries. Secure Internet voting would combine the ease of email with greater security, voter authentication and ballot handling. Deployed military personnel are accustomed to logging on to websites to handle many of their affairs back home."[10]

While many military members in 2008 clearly encouraged election officials to explore the use of a streamlined electronic ballot transmission process, the 2008 delegation noted concerns with

[10] Hoseman, Delbert, *supra.*

voter authentication and ballot security. This delegation shares those same ballot security concerns related to an electronic ballot transmission process being made available to members of the general public. Additionally, electronic ballot transmission may be prohibited by provisions of some state statutes or constitutions and those underlying policy concerns should first be explored in depth. However, we believe the use of the CAC system, along with other security measures, may provide sufficient safeguards to securely transmit election materials, including marked ballots, and its use in the electoral system should be further explored.

***Recommendation #2***

**Enhance Efforts to Provide Individualized Content to Absentee Voters (Direct-to-the-Voter Assistance)**

Challenges clearly remain in delivering voting assistance information to overseas and military voters in a manner that does not pose an additional barrier to voting compared with traditional voters living within the U.S. To be certain, despite the significant efforts of FVAP and state and local election officials, many military and overseas voters still report that the cumbersome process of deciphering state-by-state procedures, timelines and deadlines can be absolutely mystifying. Further coordination between state and local election offices and the federal government could streamline and facilitate navigation of the system.

Current outreach most frequently directs voters to access the FVAP online portal, where military and overseas voters can find general and state-specific information on absentee voting rules and deadlines. This portal functions through an effective wizard system that assists voters in navigating the process by guiding the user through a series of questions and then delivering tailored information relating to their voting jurisdiction. While many military and overseas voters reported that the system is easy to use and has been well received by absentee voters, the delegation also received comments that the system is overly cumbersome because it requires an affirmative commitment by the individual voter to seek out the information. This additional step in seeking out information related to procedures, timelines and deadlines is in many ways unique to absentee voters.

One means of making the voting process easier and more efficient for overseas citizens and military members is to communicate jurisdiction-specific information directly to the voter in an

individualized communication. In contrast to the current system, which requires the voter to determine their appropriate voting jurisdiction, these communications about the voting process would reach the individual voter directly, perhaps by email, and contain state-specific information relating to procedures, timelines and deadlines. The overwhelming challenge in presenting information to absentee voters in this manner is the fact that information about an individual voter's residence for purposes of determining their voting jurisdiction is not always readily available to local and state election officials. In fact, in some instances the issue is complicated even further by the fact that some citizens who are eligible to vote via absentee ballot may not know themselves in which U.S. jurisdiction they are eligible to vote. An additional barrier is that even though some federal agencies may collect or maintain data relating to residency, legal privacy barriers prevent sharing the data with election officials. However, to the extent that the DOD or the Department of State maintains information pertaining to the residency of these absentee voters, it should be further explored whether use of the residency data could be enhanced to better provide these voters with individualized information relating to how and when they can cast their ballots.

***Recommendation #3***

**Enhance Coordination with MPS and State and Local Election Officials**

A common complaint about the overseas and absentee voting process was that tracking or confirmation mechanisms in place within local election offices are not efficient. Several military members reported frustration after they had attempted to communicate with their local election office but had not received acknowledgement or confirmation that the communication had been received. For example, several voters reported that they sent their FPCA or otherwise requested absentee ballots but did not receive immediate confirmation that any request had been made or processed. This results in voter confusion as to whether the request was received by the election officials, whether they would in fact be able to cast a ballot in the upcoming election as well as a general lack of confidence that their ballots would ultimately be counted.

Although funding was made available to the states to enhance systems relating to ballot tracking and communication,[11] the system enhancements in some states have not been maintained and

[11] Press Release #19, Federal Voting Assistance Program. FVAP Wants to Provide More Online Tools – Registration, Absentee Ballot Application and Ballot Completion to be Done Electronically. (December, 15, 2009).

could be further improved. In 2010, FVAP provided grants to states to create a customized, web-based ballot request and marking system capable of delivering an absentee ballot electronically. The system was precinct-specific, supported online marking of ballots or printing of blank ballots, and had ballot return features per state requirements. FVAP provided Tier 1 call support for military and overseas voters, and vendors provided system-specific troubleshooting. There was no cost to states for baseline functionality, but states had the option to provide additional features at their own cost. Although these grants allowed for upgrades to systems within election offices, the grant structure did not often provide sufficient flexibility to allow the states to incorporate the enhancements into their legacy systems. Outside of additional costs, the next biggest contributing factor to the inability to link into legacy systems was the short timeframe for implementation of this grant. States were given a six month timeline (April 30 - October 31, 2010) to execute the process, including the requirement that they opt into the program, contribute and participate in the RFP application process, and work with the selected vendor to develop, test and deploy the system. The developed product, while adequate, was only a baseline system. These constraints provided limited time to integrate a new online absentee ballot marking solution into legacy systems during the six months leading into a general election. As a result, many of the upgrades were not maintained in succeeding elections. These initiatives should be reexamined to determine whether additional funding, resources and time could be effectively allocated to improve communication between local election offices and our overseas and military voters.

Additionally, the administration of absentee ballots could be further enhanced by better integrating MPS systems and those of state and local election offices. Notably, the MPS maintains and operates a sophisticated mail tracking system, Automated Military Postal System (AMPS), which logs valuable data pertaining to the location and quantity of ballots within the system. Further analysis should be conducted as to whether the data from AMPS could be shared or integrated with local and state election offices. This data could provide to election officials valuable information pertaining to the volume of ballots in transit, including expected arrival times at the local election office, which could provide significant improvements in the allocation of resources. Furthermore, this information could potentially be shared with individual voters through state and local election offices, adding enhanced ballot tracking and tracing capabilities.

# CONCLUSION

The recommendations set forth in this report are proposals that we consider the appropriate next steps to ensure easy access to elections information and processes for military and overseas voters. It is our belief that in the broadest sense, the keys to doing so are the availability and use of technology, and the leadership of both civilian and military election officials in developing and maintaining procedures that facilitate military and overseas voting.